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Via E-mail & Regular Mail

December 16, 2013

Thomas R. Short, Jr.
Chief
Remedial Response Branch 2 (Mail Code SC-6J)
U.S. Environmental Protection Agency
77 West Jackson Blvd.
Chicago, Illinois 60604

US EPA RECORDS CENTER REGION 5



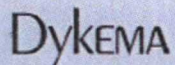
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Re: G&H Landfill Superfund Site ("Site")
United States of America v. Browning Ferris Industries, Inc.
Consent Decree; Civil Action 92-CV-75460-OT ("Consent Decree")

Dear Mr. Short:

We write to you on behalf of the G&H Landfill PRP Group ("Group") in further response to your letter dated November 26, 2013 ("Notice Letter"), following up the recent telephone conversations between Group representatives and US EPA Site Remedial Project Manager ("RPM") Bill Ryan and MDEQ Site project personnel regarding the Notice Letter, as well as my e-mail exchanges with US EPA Associate Regional Counsel Jeff Cahn and US DOJ Trial Attorney Alison McGregor related to the Notice Letter (copies enclosed).

The Group is hereby timely submitting the enclosed Corrective Action Plan for Improving Collection System Performance in response to US EPA's request in the Notice Letter pursuant to Paragraph II.B.7. of the Scope of Work ("SOW") attached to the Consent Decree. The Group also will be timely submitting under a subsequent cover letter a separate plan regarding Site groundwater cleanup standard in response to US EPA's request in the Notice Letter pursuant to Paragraph II.E.6. of the SOW. Please note that, by making these submissions, the Group is not agreeing with the bases presented in the Notice Letter for US EPA's requests under the SOW for corrective action plans, nor is the Group admitting any liability or obligation under the Consent Decree or applicable law for any matters addressed in the Notice Letter. Rather, the Group is expressly reserving all rights and defenses regarding such matters under the Consent Decree and applicable law. Moreover, the Group requests that this letter, the enclosed copies of e-mails, the plans for corrective action and all other prior submissions and correspondence from the Group and US EPA that are referenced in this letter be made a part of the administrative record for the Site.



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Dealings On Five-Year Review Action Items

The plans for corrective action will contain the Group's substantive responses to the specific technical and compliance issues set forth in the Notice Letter concerning the adequacy of the performance of the Site remedy. However, through this letter, the Group wants to further respond to additional issues addressed in the Notice Letter, as well as to complete and correct the description of the parties' dealings regarding the US EPA's 2011 Site Five-Year Review (FYR).

The Group has been diligent in communicating with US EPA and MDEQ regarding the FYR and in responding to the action items identified in the FYR. Group representatives met with US EPA and MDEQ in May 2010 to kick off the implementation of the FYR. As part of the FYR preparation process, the Group responded to various Site information requests from US EPA. On August 12, 2011, the Group also provided comments to US EPA on a draft FYR dated July 2011 regarding incomplete and incorrect items. However, the final version of the FYR issued on September 13, 2011 did not incorporate any of the Group's comments.

Following its receipt of the final version of the FYR, the Group carried out a series of discussions over several months with the Site RPM and MDEQ Site project personnel regarding action items. Consistent with the direction received from the Site RPM and MDEQ during those discussions, the Group's Project Coordinator and longstanding Site technical expert, Conestoga-Rovers & Associates ("CRA"), developed on behalf of the Group and submitted to US EPA and MDEQ via e-mail on March 12, 2012 a Proposal Approach For Addressing The Five Year Review Recommended And Follow Up Actions ("Proposal"). US EPA and MDEQ confirmed their concurrence with CRA's Proposal during a March 15, 2012 conference call involving Group representatives, the Site RPM and MDEQ Site project personnel.

After receiving the agencies' concurrence regarding the Proposal, further communications and coordination efforts occurred among Group, US EPA and MDEQ representatives regarding the implementation of the Proposal, which resulted in the Group developing and performing various plans to address the action items noted in the FYR, including:

- Sampling Plan for Phase III Landfill Tile Drains dated May 28, 2012 and approved by US EPA on June 5, 2012 to assess potential impacts to stormwater discharges from the drainage layer of the landfill cap. The underlying work could not be completed in 2012 due to drought conditions resulting in no discharge from the tile drains, so remaining work was carried out in April 2013.

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- Aquifer Test Work Plan dated May 29, 2012 and approved by US EPA on June 12, 2012 to assess additional extraction alternatives along the Detroit Water and Sewage District (DWSD) 96-inch watermain. The underlying work was implemented in June and July 2012. Aquifer pumping test results were submitted to US EPA and MDEQ on March 25, 2013. Those results indicated a low yield due to the presence of low permeability soils, which create a technical challenge for the dewatering along the DWSD watermain. In response, CRA initiated efforts with US EPA and MDEQ to determine alternatives for achieving performance.

- Draft Institutional Control Investigation/Study Report dated March 22, 2013. To date, the Group has not received any communications from US EPA or MDEQ regarding this submission.

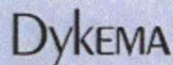
- Phase III Landfill Investigation Work Plan dated July 2, 2013 and approved by US EPA on July 9, 2013. Underlying work was implemented in August 2013 and CRA is preparing a report regarding the results for near future submission to US EPA and MDEQ.

In addition to the submission, approval and implementation of various work plans, frequent ongoing communication occurred in relation to the FYR mainly between CRA, the Site RPM and MDEQ Site project personnel. Among other topics, these contacts covered informal progress updates on Site work, agency requests for Site information and responses to those requests, agency comments on work plans, and coordination of field work and Site visits. Most communications were via direct calls, conference calls and e-mails between CRA and one or both of the Site RPM and MDEQ Site project personnel. During 2012, such contacts occurred in every month except April, and communications have been occurring regularly every month this year except June and July.

These extensive efforts by the Group have involved considerable time and expense and have been carried out with the knowledge and support of US EPA and MDEQ to resolve the issues raised in the FYR. At no time prior to the Notice Letter did the Group receive comments from US EPA or MDEQ that any of its response efforts regarding the action items addressed in the FYR were inadequate or unacceptable. In fact, a complete review of the record of dealings among the parties – as summarized above – shows otherwise.

Communication Protocols

As noted above and in my November 26, 2013 e-mail to Jeff Cahn, CRA continues to serve as the Group's Project Coordinator under the Consent Decree, with Gavin O'Neill having the lead for CRA in that role. Gavin O'Neill's contact information is: Conestoga-Rovers & Associates,



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1880 Assumption St., Unit 200, Windsor, Ontario, N8Y 1C4 (Office: 519-966-9886; Cell: 519-965-9000; E-mail: goneill@CRAworld.com).

Consistent with the Consent Decree communication provisions and the requests in the Notice Letter and Jeff Cahn's November 27, 2013 e-mail to me, the Group will continue to communicate with US EPA primarily through CRA, and counsel for the Group will not communicate with US EPA technical personnel regarding the Site unless US EPA Regional Counsel is included in that communication. In the event counsel for the Group wishes to participate with other Group representatives in a meeting or call with the Site RPM or other US EPA technical personnel regarding the Site, Jeff Cahn will be notified in advance and, if he elects not to participate, then counsel for the Group will either not participate or only participate as an observer who does not directly communicate with US EPA technical personnel.

Updating Financial Assurance Amount

For the reasons presented in my letter dated April 12, 2013 to Jeff Cahn, the Group stands by its positions that audited financial statements are an acceptable form of financial assurance under the Consent Decree, and that the current amount of financial assurance required for the Site should be significantly less than the original \$40 million financial security amount in the Consent Decree, which amount reflects all costs associated with the design, construction, operation and maintenance of the Site remedy. The Group does not think it is reasonable to maintain the original \$40 million financial assurance amount in the Consent Decree just in case there is an extremely remote contingency requiring a complete re-design and re-construction of the Site remedy. At the same time, the Group acknowledges that the ability to determine a specific, updated financial assurance amount is tied to the resolution of the technical issues involved in US EPA's requests for corrective action plans because those plans may result in some modification of the scope of work on which the Group's long-term cost projection (that was presented with my April 12, 2013 letter) was based.

Accordingly, the Group supports keeping the determination of an updated financial assurance amount on a parallel track with the resolution of the corrective action plan issues set forth in the Notice Letter. Such an appropriate approach is consistent with the arrangement that I reached with Jeff Cahn and US DOJ Trial Attorney Alison McGregor during our last call on the matter on August 8, 2013, during which we agreed that, before resorting to dispute resolution under the Consent Decree, the next step in the process for pursuing the resolution of the outstanding financial assurance issues would be at the point US EPA is ready to determine the current amount of financial assurance required for the balance of Site work.

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Since my call with Alison McGregor and Jeff Cahn this past August, and consistent with the arrangement I reached with them during that call, the Group was waiting to hear when US EPA was ready to work forward on establishing a current, reduced financial assurance amount under the Consent Decree. The Group understood from communications with the Site RPM that he concurred with CRA's \$6.8 million present value of remaining Site remedy costs presented with my April 12, 2013 letter, but that US EPA's review of the financial assurance amount for the Site was moving ahead slowly due to the government shutdown and other demands on agency resources. The only other contact the Group received on the matter prior to the Notice Letter was a voicemail message from Alison McGregor on November 21, 2013, indicating US EPA was still reviewing the matter, but things were proceeding on the same track we had agreed upon during our August 8 telephone call, with the ball still in US EPA's court and no actions required by the Group on the matter. I acknowledged her voicemail message and my understanding of the matter in a November 21, 2013 e-mail to her and Jeff Cahn, as well as in my November 27, 2013 e-mail to Jeff Cahn and her. Alison McGregor's reply e-mails on November 21 and November 27 acknowledged my understanding of the matter, and Jeff Cahn has not communicated with me on the matter since our call on August 8, 2013.

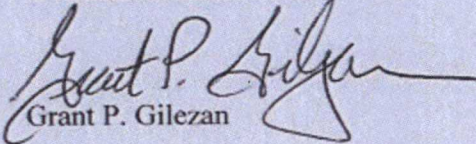
Conclusion

The Group stands ready to continue to pursue a good faith resolution of all of the issues set forth in the Notice Letter, just as it has been engaging in good faith with US EPA and MDEQ over the past couple years to appropriately address the action items set forth in the FYR.

Please contact me if you have any questions regarding the subjects covered above. Thank you for your attention to this matter.

Very truly yours,

DYKEMA GOSSETT PLLC



Grant P. Gilezan

Enclosures

cc: William Ryan, US EPA (via e-mail)
Jeff Cahn, US EPA (via e-mail)
Kristi Zakrzewski, MDEQ (via e-mail)
Gavin O'Neill, CRA (via e-mail)